



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,621	07/25/2006	Hubert Moriceau	9905-37 (BIFI16044/US)	2319
90678 7590 12/14/2011 Commissariat a l'Energie Atomique/BHGL P.O. Box 10395 Chicago, IL 60610				
EXAMINER				
PATEL, REEMA				
ART UNIT		PAPER NUMBER		
2812				
MAIL DATE		DELIVERY MODE		
12/14/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/565,621

Applicant(s)

MORICEAU ET AL.

Examiner

REEMA PATEL

Art Unit

2812

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1, 5-8 and 11-26 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☒ Claim(s) 1, 5-8 and 11-25 is/are allowed.
- 7) ☒ Claim(s) 26 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 07 July 2010 is/are: a) ☒ accepted and b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

This action is in response to an Appeal Brief filed on 9/2/11. In view of the arguments in that brief, the examiner has withdrawn the previous Final Rejection (11/23/10) and has re-opened prosecution on the merits.

Drawings

1. The updated Fig. 7 drawings were received on 7/7/10. These drawings are acceptable to the examiner.

Specification

2. The objection to the Specification made in the Final Rejection (11/23/10) under 35 U.S.C. 132(a) is withdrawn.

Claim Rejections - 35 USC § 112

3. The 35 U.S.C. 112, first paragraph, rejections of claims 1, 5-8, and 11-26 are withdrawn.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 26 is rejected under 35 U.S.C. 102(b) as being anticipated by Diem et al. (U.S. 6,001,666; "Diem").

6. Claim 26 is a product-by-process claim and as such, will be examined in accordance with the structural limitations implied by the method steps in claim 1, the method claim upon which it depends (MPEP 2113).

7. Regarding claim 26, Diem discloses in Fig. 21 a first plate (100) with a surface portion having a roughness (indentations) such that the surface portion is incapable of sticking to a surface of a second plate (3), wherein the surface portion of the first plate is exposed and at least partially faces and is in close proximity to the second plate (col 8, lines 26-44). Method claim 1 includes forming a sacrificial layer and at least partly eliminating the sacrificial layer. Hence, if this sacrificial layer is entirely removed, then there is no sacrificial in the final stacked structure.

Allowable Subject Matter

8. Claims 1, 5-8, and 11-25 are allowed. Claim 1 contains allowable subject matter because of the limitation of a step of at least partly eliminating the sacrificial layer to expose the surface portion of the first plate having the roughness such that the surface portion at least partially faces the second plate. Claims 5-8 and 11-25 depend on claim 1.

Response to Arguments

9. Applicant's arguments with respect to claim 26 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REEMA PATEL whose telephone number is (571)270-1436. The examiner can normally be reached on M-F, 8:00-4:30 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Garber can be reached on (571)272-2194. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. P./
Examiner, Art Unit 2812
12/12/11

/Charles D. Garber/

Supervisory Patent Examiner, Art Unit 2812